



## Department of Energy

Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

00-RU-0264

Mr. M. J. Bullock, Vice President  
BNFL Inc.  
3000 George Washington Way  
Richland, Washington 99352

Dear Mr. Bullock:

### EMPLOYEE CONCERNS PROGRAM INSPECTION REPORT, IR-00-002

From February 7-11, 2000, the Regulatory Unit performed an inspection of the BNFL Inc. Employee Concerns Program.

No Findings were identified during this inspection. The inspection found that BNFL has made good progress in the implementation of its Employee Concerns Program. The inspection also found that there was an atmosphere of open communication within the project and that employees felt free to express concerns to management without fear of reprisal. One Inspection Follow-up Item was identified to track resolution of some weaknesses found in implementing procedures. Details of the inspection are provided in the enclosure.

Nothing in this letter should be construed as changing the Contract (DE-AC06-96RL13308). If you have any questions regarding this inspection, please contact me or Pat Carier of my staff on (509) 376-3574.

Sincerely,

D. Clark Gibbs, Regulatory Official  
Office of Safety Regulation  
of the TWRS-P Contractor

REG:PPC

Enclosure

cc w/encl:  
D. W. Edwards, BNFL

00-RU-0264

Mr. M. J. Bullock, Vice President  
BNFL Inc.  
3000 George Washington Way  
Richland, Washington 99352

Dear Mr. Bullock:

EMPLOYEE CONCERNS PROGRAM INSPECTION REPORT, IR-00-002

From February 7-11, 2000, the Regulatory Unit performed an inspection of the BNFL Inc. Employee Concerns Program.

No Findings were identified during this inspection. The inspection found that BNFL has made good progress in the implementation of its Employee Concerns Program. The inspection also found that there was an atmosphere of open communication within the project and that employees felt free to express concerns to management without fear of reprisal. One Inspection Follow-up Item was identified to track resolution of some weaknesses found in implementing procedures. Details of the inspection is provided in the enclosure.

Nothing in this letter should be construed as changing the Contract (DE-AC06-96RL13308). If you have any questions regarding this inspection, please contact me or Pat Carier of my staff on (509) 376-3574.

Sincerely,

D. Clark Gibbs, Regulatory Official  
Office of Safety Regulation  
of the TWRS-P Contractor

REG:PPC

Enclosure

cc w/encl:  
D. W. Edwards, BNFL

bcc:  
RU OFF FILE (Docket 00-RU-B-148)  
RU RDG FILE  
RU Distribution (see attached)

Office >	REG	REG	REG		
Surname >	CARIER	BARR	GIBBS		
Date >					

(Please return to Dianne Hopkins 6-4132 A4-70/FED FAX 6-3661 )

**U.S. DEPARTMENT OF ENERGY**  
Richland Operations Office  
Office of Safety Regulation of the TWRS-P Contractor

INSPECTION: EMPLOYEE CONCERNS PROGRAM ASSESSMENT

REPORT No.: IR-00-002

FACILITY: BNFL Inc.

LOCATION: 3000 George Washington Way  
Richland, Washington 99352

DATES: February 7-11, 2000

INSPECTOR: P. Carier (Lead), Verification and Confirmation Official

APPROVED BY: P. Carier, Verification and Confirmation Official  
Office of Safety Regulation of the TWRS-P Contractor

**EXECUTIVE SUMMARY**  
**Employee Concerns Program Assessment**  
**Regulatory Unit Inspection Report IR-00-002**

## INTRODUCTION

This inspection of the BNFL Inc. (the Contractor) Employee Concerns Program (ECP) covered the following seven specific areas:

- Procedures and Activities that Implement the ECP (Section 1.2)
- Independence Between the ECP and the Line Organizations (Section 1.3)
- Environment for Reporting Concerns (Section 1.4)
- Protection Against Reprisal (Section 1.5)
- Expertise of ECP Staff (Section 1.6)
- ECP Self-assessment (Section 1.7)
- Closure of Inspection Finding IR-98-001-01-FIN (Section 1.8)

At the time of this inspection, the Contractor had received no employee concerns. Therefore, areas such as documentation of concerns, corrective actions, prioritization of concerns, and feedback to employees were not addressed during this inspection.

## SIGNIFICANT OBSERVATIONS AND CONCLUSIONS

- There was demonstrated Senior Management support for the ECP. Senior Management had made specific endorsement of the process by recently distributing an all employee memorandum reinforcing the ECP. Additionally, the mandatory training module reiterated senior management support. (Section 1.2)
- The atmosphere of open communication within the project continued to be evident and it was apparent that the BNFL employees felt free and comfortable to express concerns to management without fear of reprisal. (Section 1.4)
- Employees had knowledge of the ECP process. Employees were aware that procedures governed the process and that different avenues were available to them to raise a concern. (Section 1.4)
- Procedural guidance for handling concerns was established. Specific implementing guidance was provided and included the following:
  - Roles, duties, and responsibilities, for ensuring and maintaining independence from the line organization in which an employee concern may originate
  - Taking immediate actions for imminent hazards

- Closing out employee concerns in a fair and impartial manner
  - Assuring and maintaining confidentiality
  - Involving people with the appropriate expertise and authority
  - Establishing qualification standards for managers, ECP staff, or concern investigators.
- Some procedure weaknesses were identified and an Inspection Follow-up action was identified to track resolution of the issues.
  - Based upon the aggregate of the inspection conclusions, the inspector found that the ECP was in place and functioning. (Section 1.9)

## Table of Contents

1.0	REPORT DETAILS.....	1
1.1	Introduction.....	1
1.2	Procedures and Activities that Implement the ECP (Inspection Technical Procedure (ITP) I-108).....	1
1.3	Independence Between the ECP and the Line Organizations (ITP I-108) .....	4
1.4	Environment for Reporting Concerns (ITP I-108).....	5
1.5	Protection Against Reprisal (ITP I-108) .....	7
1.6	Expertise of ECP Staff (ITP I-108).....	8
1.7	ECP Independent and Self assessments (ITP I-108).....	10
1.8	Closure of Inspection Finding IR-98-001-01-FIN.....	11
1.9	ECP Program Assessment Conclusion .....	13
2.0	EXIT MEETING SUMMARY .....	13
3.0	REPORT BACKGROUND INFORMATION .....	14
3.1	Partial List of Persons Contacted.....	14
3.2	List of Documents Reviewed at the Contractor Facility.....	14
3.3	List of Inspection Procedures Used .....	15
3.4	List of Items Opened, Closed, and Discussed.....	15
3.5	List of Acronyms .....	15

This page intentionally left blank.

## **EMPLOYEE CONCERNS PROGRAM INSPECTION REPORT**

### **1.0 REPORT DETAILS**

#### **1.1 Introduction**

The Tank Waste Remediation System-Privatization (TWRS-P) project was in the design phase at the time of the inspection. BNFL Inc. (Contractor) had hired approximately 95% of the target number of staff planned to continue progress on the project's design.

The TWRS-P Contract<sup>1</sup> commits the Contractor to implement an employee concerns management program. The Contractor's program, BNFL-5193-ECP-01, "Employee Concerns Program Description and Instructions," Revision 0, dated March 18, 1997 (program description), is considered part of the authorization basis and served as the base requirements' document for this inspection. This was the second Regulatory Unit inspection in this area. The first inspection was documented in Inspection Report IR-98-001.<sup>2</sup> The previous inspection found that the Contractor had not fully implemented an employee concerns program as required by the Contract. As a result, the RU issued a Finding that identified several areas needing improvement and requested that the Contractor take extensive corrective actions.

At the time of this inspection, the Contractor had implemented the corrective actions from the Finding discussed above. The Contractor had received no employee concerns. The inspector reviewed the ECP Description and Instructions and project implementing procedures and interviewed the ECP Officer and fourteen employees. The inspector also reviewed corrective actions for the above Finding and related documents and information at the Contractor's facility.

#### **1.2 Procedures and Activities that Implement the ECP (Inspection Technical Procedure [ITP] I-108)**

##### **1.2.1 Inspection Scope**

The inspector assessed the Contractor's activities that implement the ECP. The inspector examined and focused on the information flow process and the Contractor's process for receiving, evaluating, dispositioning, tracking, and documenting concerns.

##### **1.2.2 Observations and Assessments**

The inspector assessed whether the ECP included a corporate policy on the ECP and that this policy was clearly communicated to Contractor employees. The inspector reviewed the program description, and determined the corporate policy on the ECP, including the policy against employee reprisal for raising concerns, was stated in this document. This policy was

---

<sup>1</sup> Contract No. DE-AC06-96RL13308 between DOE and BNFL Inc., dated August 24, 1998, Part I, Section C, Standard 4, "Safety, Health, and Environmental Program," Table S4-1, page C-61, item 1, "Employee Concerns Management System"

<sup>2</sup> 99-RU-0103, Letter, D. C. Gibbs, RL, to M. J. Bullock, "RU Inspection Report IR-98-001, Employee Concerns Program," dated December 30, 1998.



communicated to employees in several ways. The inspector reviewed the mandatory training required of all employees and found that this policy was described within the training module. The inspector reviewed the material provided to new incoming employee at the initial orientation session. At this session all employees were provided an employee concerns program pamphlet which also described the corporate policy consistent with the above program description. The inspector also reviewed a recently issued "All Employees Memorandum," dated January 28, 2000, signed by the General Manager. The content of the memorandum was consistent with the policy described in the above program description. Based on interviews with fourteen Contractor staff, the inspector determined the employees were generally aware of the Contractor's policy against reprisal. Finally, the inspector reviewed Section 1.0 of *Code of Practice for Employee Concerns Program*, K21C001\_0, dated April 1999 (ECP code of practice). This section entitled "General Requirements" also communicated the corporate policy consistent with the program description. Based on the review of documents and the interviews conducted, the inspector determined that an ECP corporate policy existed and was communicated to the Contractor employees.

The inspector assessed whether the ECP comprised an effective system for ensuring that information was readily available on how Contractor and subcontractor employees can access the ECP. The inspector reviewed the program description, and determined that the ECP was made available and was intended for both direct project and subcontractor employees. During the last inspection, the inspectors found that the ECP did not include implementing guidance that addressed the process by which sub-contractors would implement an ECP, nor the mechanism for overseeing each subcontractor's use of a program. The inspector reviewed Section 5.6, "Application of ECP to Subcontractor(s)," to determine how the Contractor addressed this issue. The inspector found that the section captured the flow-down requirement for an ECP program and that "this clause will be included in contracts." However, based on an interview with the contracts manager and the language in Section 5.6, the inspector could not determine how this flow-down requirement would be converted into contract language. The procedure also did not address the mechanism for oversight of the subcontractor's ECP program. The lack of guidance for addressing this issue was considered a procedure weakness and will be tracked as Inspection Follow-up Item IR-00-002-01-IFI. At the time of the inspection, there were no subcontractor activities that would warrant an ECP. As a result, no Finding was identified.

The inspector assessed whether the ECP clearly provided methods for reporting concerns. The inspector verified that the methods for reporting concerns were disseminated to employees as required by the program description. Based upon the interviews, the inspector determined that employees were aware that concerns could be raised to management, the ECP Officer or Coordinator, and DOE, and that employee concern forms were available in the ECP code of practice. Further detail on methods for reporting concerns can be found in Section 1.4, "Environment for Reporting Concerns" of this report.

The inspector assessed whether the ECP implemented programmatic elements assuring employee confidentiality as required by the program description. Specific implementing guidance was provided in several locations. The inspector reviewed the ECP code of practice, the ECP pamphlet, and the mandatory training module for the ECP. These documents provided the necessary guidance for assuring confidentiality. In addition, employees interviewed were aware of the provisions for confidentiality. Based upon the interviews and documents reviewed, the inspector determined that the ECP provided adequate implementation elements to assure

employee confidentiality.

The inspector assessed whether the ECP implemented programmatic elements protecting employees from reprisal. The policy on protection against reprisal was clearly stated in the program description, and the document contained references to avenues of appeal for employees who believe they have suffered retaliation. The inspector found that the protection against reprisal was discussed in several implementing documents. The inspector reviewed the ECP code of practice, the ECP pamphlet, the recent memorandum sent by senior management, and the mandatory ECP training module. The inspector found that these documents, provided to employees, addressed reprisal or avenues of appeal. In addition, interviews confirmed that employees understood that they were protected against reprisal activities and knew their avenues of appeal. Based upon the interviews and documents reviewed, the inspector determined that measures to protect employees from reprisal were implemented. Further detail on reprisal can be found in Section 1.5, "Protection Against Reprisal" of this report.

The inspector assessed whether the ECP implemented programmatic elements ensuring that evaluations of employee concerns were independent from the line organizations in which the concerns originated. Sections 2.0 and 4.0 of the ECP code of practice provided guidance for ensuring that the ECP staff assigned independent concern investigators. Based upon interviews with ECP staff and the review of the ECP code of practice, the inspector found that there was adequate procedural guidance in place to ensure independent, fair, and impartial evaluations of employee concerns. Further detail on independence can be found in Section 1.3, "Independence Between the ECP and the Line Organizations" of this report.

The inspector assessed whether methods were in place regarding employee concerns for prioritizing, evaluating, tracking, resolving, documenting, and providing feedback to the individuals raising them. The program description contained provisions addressing these aspects of an employee concerns program. The inspector reviewed the ECP code of practice to ensure that adequate guidance was provided for these elements.

The inspector found that the ECP code of practice contained adequate provisions for tracking, resolving, documenting and feeding back results. The inspector found that the guidance provided in the ECP code of practice adequately addressed prioritization and evaluation of concerns for the current design phase of the project. However, the guidance provided for prioritization and evaluation of the concern would not be sufficient for the upcoming construction and operating phase of the project. For example, the procedure did not provide adequate examples of what may constitute imminent danger nor did it contain guidance describing when or how to obtain the involvement of people with the appropriate expertise and authority to substantiate the determination. This issue will be tracked as the second example of a procedure weakness under Inspection Follow-up Item IR-00-002-01-IFI.

The inspector also reviewed draft procedure, *Data Entry Guide for Employee Concerns Database*, dated January 2000, and received a demonstration by the Contractor of the ECP database loaded with sample data. Based upon observation of the electronic database and its associated draft procedure, the inspector determined that a specific tracking system, customized for the ECP, was being put in place. The tracking system was found to contain an appropriate level of detail and would generate reports to support the management of the ECP. The inspector also reviewed the ECP code of practice Section 5.7, "Concern Program Database Management,"

to determine if adequate guidance was provided for database management. The inspector found that this section established requirements for a confidential data management system. However, it did not clearly communicate who would be responsible for data entry, who would have access to the data, and who would ensure that the data was secure and confidential. The resolution of this issue will be tracked as the third example of procedure weakness under Inspection Follow-up item IR-00-002-01-IFI.

### **1.2.3 Conclusions**

The inspector found that the methods for reporting concerns were clearly stated and that employees were aware of these methods. The inspector also found that there was adequate procedural implementing guidance on how concerns are to be handled and how the program was to be administered. The inspector found that the corporate policy on the ECP was stated and it had been disseminated to employees. The inspector found that the ECP was available to both direct project and subcontractor employees. However, the ECP code of practice did not identify a method for ensuring that the flow down ECP requirement was communicated to subcontractors, nor did it provide guidance for oversight of the subcontractor's ECPs. The inspector found that the ECP had adequate programmatic elements for assuring employee confidentiality. The inspector found that measures to protect employees from reprisal were implemented. The inspector found that there was adequate procedural guidance in place to ensure independent, fair, and impartial evaluations of employee concerns. The inspector found that the program description contained provisions addressing the necessary aspects of an employee concerns program and that implementing guidance was provided in the ECP code of practice. An Inspection Follow-up item was opened to track resolution of procedure weaknesses.

## **1.3 Independence Between the ECP and the Line Organizations (ITP I-108)**

### **1.3.1 Inspection Scope**

The inspector assessed the ability of the ECP staff to impartially process concerns independent of the employee's line organization. The inspector reviewed the organizational placement and the reporting structure of the ECP staff to determine whether adequate independence between line organizations and the ECP existed. The inspector assessed the ECP process for investigating employee concerns without influence by line organizations.

### **1.3.2 Observations and Assessments**

The ECP staff consisted of an ECP Officer, who was also the Director of Human Resources (HR), and an ECP Coordinator, who was also the Quality Assurance (QA) Manager. The ECP Coordinator, in the role of the QA Manager, reported to a Director, who reports to the General Manager. However, the ECP Coordinator position reported directly to the ECP Officer. The ECP Officer position reported directly to the General Manager. It should be noted that should a conflict of interest occur with the ECP Officer, the ECP Coordinator would have a direct line to the General Manager. The inspector found that, organizationally, adequate independence between line organizations and the ECP staff existed.

Because the ECP had received no concerns, the inspector could not assess the independence of ECP investigations. In accordance with the ECP code of practice, concern investigators would be assigned by the ECP Officer to investigate the issue in an independent and objective manner. Specifically, Section 2, "ECP Staff Qualification," stated: "The investigator should be a member of line management, or designee, who can objectively evaluate the concern and has the authority to take, or cause to be taken, any required corrective actions." The ECP code of practice also contained some guidance on when and how ECP staff could call upon other sources of expertise.

Appendix D to the program description contained guidelines for investigators. These guidelines had been incorporated as Appendix 4 to *Code of Practice for Investigations and Critiques*, K15C010\_0, 4/99. This guidance combined with the guidance in the ECP code of practice provided adequate structure for initiating investigations and for maintaining independence from line organizations. Based upon interviews, employees were aware that investigators independent from the line organizations in which the concerns originate should perform the investigations.

### **1.3.3 Conclusions**

The inspector found that adequate independence between line organizations and the ECP staff existed. The inspector also found that there was adequate implementation guidance that described how ECP investigations would be performed in an independent and objective manner.

## **1.4 Environment for Reporting Concerns (ITP I-108)**

### **1.4.1 Inspection Scope**

The inspector assessed if and how the Contractor publicized the ECP as an avenue for employees to report concerns when they are reluctant to report them to their line organization. The inspector assessed how employees, if they wish to maintain confidentiality, are assured that confidentiality will be preserved. The inspector evaluated how all employees, including new employees, are made aware of procedures that govern accessibility to, reporting concerns to, and implementation of, the ECP. The inspector assessed whether departing or dismissed employees are debriefed regarding any concerns they may have.

### **1.4.2 Observations and Assessments**

The inspector assessed if and how the Contractor publicized the ECP as an avenue for employees to report concerns when they are reluctant to report them to their line organization. The inspector verified that there were ECP-related postings and that reporting forms were available in the ECP code of practice. The inspector was provided a map of the office complex showing where the ECP postings were located. The inspector audited four of the eleven bulletin boards and found that the ECP poster and ECP pamphlets were available in all locations audited. The inspector reviewed the information that was provided at the orientation training session. The orientation sessions provided a general overview of the ECP, provided each employee with a copy of the ECP pamphlet, and made each employee acknowledge that they understood the key elements of the ECP. The ECP pamphlet was provided to each new employee and was available

at various bulletin boards throughout the office complex. The pamphlet described how the ECP was independent from the line organization, protects the employee against reprisal, assures confidentiality, and provides points of contact and key phone numbers for internal and external organizations. However, the inspector noted that the point-of-contact for DOE was the RL Employee Concerns Office not the RU as described in the program description. The inspector also found that the ECP code of practice and the ECP training module also referred employees to the RL Employee Concerns Office. The inspector found that omitting the RU as a point-of-contact provided partial information to employees that may choose to raise concerns directly to DOE. The information provided to employees should have also made mention of the RU's Safety Allegation Program Coordinator and provide information on how to make contact with this individual. Omitting the RU as a point-of-contact was considered another example of a procedure weakness. Resolution of this issue will be tracked as part of Inspection Follow-up Item IR-00-002-01-IFI.

The inspector reviewed the *River Protection Project – Waste Treatment Plant, Training and Development Plan – Design Confirmation Phase*, dated November 2, 1999. Appendix 2, of this document, listed the courses required to be completed by all employees to meet the Core Training Requirements. The inspector confirmed that the ECP was listed in the Core Training Requirements. Additional detail on the contents of the ECP training module is provided in Section 1.6, "Expertise of ECP Staff," of this report.

Based upon interviews conducted with the Contractor staff, the inspector determined that the ECP was well publicized and that employees were aware of the key elements of the program. The interviews revealed that employees realized that concerns could be raised to management, the ECP Officer or Coordinator, and DOE, and were aware of where they could obtain the appropriate forms to initiate a concern. It was also evident to the inspector that employees believed communications were open. Employees interviewed indicated that they would be comfortable taking issues directly to their management or the ECP staff.

The inspector assessed how employees, if they wish to maintain confidentiality, are assured that confidentiality will be preserved. The ECP Officer described the following aspects of the ECP: (1) employees may remain anonymous; (2) there is a requirement to approach the employee if there is a need to break confidentiality; (3) interviewing the employee away from the work place may protect confidentiality; and (4) ECP records are protected, locked, and kept separate. The inspector reviewed the ECP code of practice and found that guidance was provided throughout the procedure to ensure that confidentiality would be maintained throughout the process. Specifically, Section 1.0, "General Requirements," Section 3.0, "ECP Coordinator Selection Requirements," Section 4.0, "ECP Staff Responsibilities," Section 5.0, "Concern Processing – Mechanisms," Attachment 7, "Management Guidance Regarding the ECP", and Attachment 8, "Employee Guidance Regarding the ECP," were reviewed by the inspector. The inspector found that these sections adequately addressed the four aspects described above. The interviews conducted by the inspector also confirmed that employees understood accessibility of the ECP and were aware of the assurances and conditions for confidentiality.

The inspector assessed whether departing or dismissed employees were required to be debriefed regarding any concerns they may have. The inspector reviewed the ECP code of practice Section 5.5, "Concerns from Exiting Employees", to determine if appropriate guidance was provided. The inspector found this section confusing because it did not provide adequate guidance on how

to handle concerns raised by exiting employees. The section provided a street address to send concerns, and reminded the TWRS-P Concerns Office to process the information in accordance with Section 4.2 through 4.4 of the ECP code of practice. Section 5.5 of the ECP code of practice made no reference to any procedure for separation of employment.

The Contractor provided the inspector with a copy of Appendix 3 to the *Code of Practice for Separation of Employment*, K21C002\_0, and dated January 2000. Appendix 3, entitled "Exit Questionnaire," was required to be filled out for all "regular employees." According to the ECP Officer these forms were used in the exit clearance process administered by Human Resources. The inspector asked the ECP Officer if the definition of a "regular employee" would also include contract employees. The ECP Officer did not know what constituted a "regular employee" and stated that the intent was that every exiting employee fills out the exit questionnaire. This included subcontracted employees. The inspector found that these forms referenced the ECP and provided the exiting employee an opportunity to express concerns during the exit process. However the separation code of practice did not provide guidance on what to do with the information should a concern be raised during the exit interview. The Contractor, during the ECP self-assessment, also identified this weakness in the procedure. The inspector was presented a letter from the ECP Officer who requested that a procedure change be generated to address this lack of guidance. The inspector determined that this separation process was not cited in the program description or in the ECP code of practice.

The inspector determined that the lack of guidance in the ECP code of practice for handling concerns by exiting or dismissed employees was an example of a procedure weakness. The resolution of this concern will be tracked as part of Inspection Follow-up Item IR-00-002-01-IFI.

### **1.4.3 Conclusions**

Employees possessed adequate knowledge of the ECP process. Most of the employees interviewed were aware of the ECP code of practice. Approximately 90% of the employees had completed the mandatory training for the ECP. There was good publicity of the ECP in that information about protection against reprisal, assurance of confidentiality, and the policy was provided via guidance in the ECP code of practice, training, postings, All Employee Memorandums, and ECP pamphlets. Additional examples of procedure weaknesses were also identified.

## **1.5 Protection Against Reprisal (ITP I-108)**

### **1.5.1 Inspection Scope**

The inspector reviewed the controls in place to protect Contractor employees from reprisal as a result of raising concerns. The inspector ascertained whether Contractor management supported measures to ensure achievement to that end. The inspector assessed the ECP staff's, project management's, and employees' knowledge of the policy on protection against reprisal and/or retaliation as a result of raising environmental, safety, and health concerns as well as the available avenues of appeal (i.e., 29 CFR 24 and 10 CFR 708).

### **1.5.2 Observations and Assessments**

Based upon interviews with Contractor employees, the inspector determined that managers and employees were aware of the policy on protection against reprisal. The inspector reviewed the ECP pamphlet provided to new employees and available at various bulletin boards throughout the Contractor's office complex. The pamphlet stated that the employee may use the ECP without fear of reprimand and it also makes reference to Whistleblower Protection Act of 1989. The act specifically addresses reprisal and recourse should reprisal occur. The inspector also reviewed a recently issued "All Employee Memorandum" signed by the General Manager. The memorandum stated that employees may raise concerns without fear of reprisal or recrimination. However, it did not address recourse should employees raising concerns experience reprisal or recrimination.

The inspector also reviewed the mandatory ECP training module and found that the training directly addressed raising concerns without fear of reprisal. The training module also makes reference to the Whistleblower Protection Act and 10 CFR 708. Both of these laws address recourse for reprisal activities. However, the training module did not specifically address recourse should the employee experience reprisal. The inspector also reviewed the ECP code of practice and found that protection against reprisal was addressed in several locations. Section 1.0, "General Requirements," Attachment 7, "Management Guidance Regarding the ECP," and Attachment 8, "Employee Guidance Regarding the ECP," specifically addressed what constituted reprisal activities, the consequences to Contractor employees should they participate in reprisal activities, and the employee's rights should they experience reprisal activities.

The inspector found that the ECP Officer was aware of the policy on protection against reprisal. The ECP Officer was also aware of the specific avenues of appeal available to employees who believe they have been reprised against as a result of raising concerns associated with environmental, safety, and health.

### **1.5.3 Conclusions**

The ECP staff was aware of the avenues of redress available to employees alleging reprisal for raising environmental, safety, and health concerns and would likely be able to direct employees to the proper avenues of appeal. The policy on protection against reprisal had been clearly communicated to employees. The inspector found that the ECP code of practice provided guidance to employees informing them of their rights should they experience reprisal for raising a safety concern. The inspector also found Senior Management support of the policy for protection against reprisal.

## **1.6 Expertise of ECP Staff (ITP I-108)**

### **1.6.1 Inspection Scope**

The inspector assessed whether the ECP staff could promptly respond to and correctly process a variety of concerns if any concerns should be reported in the future. The inspector evaluated the likely extent of the ECP staff's reliance on line organizations and consultants to correctly assess

the significance of concerns that may be raised. The inspector determined whether training or qualification requirements were provided for personnel who may be involved in the handling of concerns. The inspector examined the training of the ECP and general facility staff by reviewing ECP-related training records.

### **1.6.2 Observations and Assessments**

The inspector determined, based upon the ECP staff's prior experience, combined with the accessibility of resources and the atmosphere of open communications previously discussed, that the ECP staff would likely respond to and process a variety of concerns if any concerns are reported in the future. The inspector observed through interviews with the ECP Officer and a review of the organization chart that the ECP was placed high enough in the organization to access resources as to resolve concerns. At the time of the inspection, the ECP Officer was the Manager, Human Resources, and the ECP Coordinator was the Quality Assurance Manager.

The inspector reviewed the ECP code of practice and determined that appropriate qualification requirements had been established for individuals who may become involved in handling concerns. Specifically, Appendix 1 of the ECP code of practice, "ECP Staff Qualifications", contained minimum qualification requirements for the positions of ECP Officer, ECP Coordinator, ECP Staff, and ECP Investigators. The inspector reviewed the minimum qualification requirements and found them adequate.

Inspection Report 98-001 discussed how there had been no separate ECP-related qualifications or training requirements established for managers. The inspector found that the Contractor addressed this issue by creating a separate attachment in the ECP code of practice. Attachment 7, "Management Guidance Regarding ECP," discussed expectations from management in handling concerns. However, there was no evidence that managers had been trained on these expectations. The only training that managers were required to complete was the mandatory training for ECP. This general ECP training did not specifically cover Attachment 7 of the ECP code of practice. In a recently performed self-assessment, the Contractor observed that it was not clearly evident that managers fully understood their roles and responsibilities as they relate to the ECP and that managers had not been trained in the contents of Attachment 7. As a result, the ECP Officer sent a receipt acknowledgement memorandum to all managers requesting that managers read Attachment 7. The inspector found this corrective action acceptable for the current management staff. However, the program did not address training for new incoming managers or refresher training. This management training was not required by the ECP program description, however, the Contractor should consider incorporating the contents of Attachment 7 as part of management training.

In response to Inspection Finding 98-001-01, the Contractor committed to make the Employee Concerns Program mandatory training for every employee. The inspector reviewed the training module for the ECP and found that it covered the key elements of the program. The training was computer based and upon completion required the employee to obtain their management's signature as evidence that the training was completed. These completed forms were then forwarded to the training department and became part of the employee's training record. The training included a statement of senior management support, discussion of independence from the line organization, discussion of intolerance for reprisal activities, how to file a concern, and



provided name and telephone numbers for the key points-of-contact. From review of training records, approximately 10% of the Contractor workforce had not completed the mandatory ECP training. The individuals are identified to their managers in a delinquent report sent by the training department. The Contractor identified this issue in a recently performed self-assessment. The ECP Officer committed, as a corrective action, to monitor trends for delinquent training quarterly. If negative trends develop, the ECP Officer will escalate the issue to management to ensure completion of the mandatory ECP training. The inspector found this corrective action acceptable.

### **1.6.3 Conclusions**

The inspector found that the ECP staff could respond to and process a variety of concerns should any concerns be reported in the future. Appropriate resources would likely be obtained and would likely be deployed as needed to resolve employee concerns that may be reported. ECP training was provided for all personnel who may be involved in the handling of concerns. The Contractor had established qualification standards for the ECP Officer, ECP Coordinator, ECP staff, and concern investigators.

## **1.7 ECP independent and Self assessments (ITP I-108)**

### **1.7.1 Inspection Scope**

The inspector evaluated the Contractor's recently performed independent and self-assessments of the ECP to determine whether the scope of the assessments were appropriate and whether the appropriate corrective actions were identified and implemented.

### **1.7.2 Observations and Assessments**

The inspector reviewed the recently performed self-assessment of the ECP. The assessment was performed in the month of January 2000 and was documented in self-assessment number SA-W375-00-00016, Rev 0. The inspector found that the assessment was thorough and evaluated all the key elements of the ECP, including all governing procedures. Corrective actions were complete and timely. The last of the corrective actions was planned for completion by February 29, 2000. The inspector also assessed an independent review that was performed by the Contractor's legal counsel. The legal counsel's recommended improvements were well thought out and if implemented would improve the quality of the ECP. The material provided to the inspector was considered attorney/client privileged information, and as a result, will not be discussed in detail.

Since no employee concerns had been received, as of the date of this inspection, management's assessment of the effectiveness of the ECP program at resolving concerns could not be evaluated.

### 1.7.3 Conclusions

The inspector found that the Contractor's assessments of the ECP were thorough and corrective actions, if properly implemented, will improve the quality of the ECP.

### 1.8 Closure of Inspection Finding IR-98-001-01-FIN

The Contractor provided the RU with a response to the subject Finding in a letter dated January 29, 1999,<sup>3</sup> that provided several corrective actions. The RU reviewed the Contractor's response and found that the proposed corrective action commitments, if properly implemented, would address the above Finding. This was communicated to the Contractor in a letter dated February 17, 1999.<sup>4</sup> Table 1 of this letter translated the Contractor's corrective actions into seven commitments. During the inspection, the inspector reviewed the implementation of the commitments outlined in the table below. The table provides a listing of the commitments and provides an inspection report section that supports its closure or describes how the inspector verified closure.

**Table 1 – BNFL Inc. Employee Concerns Program Corrective Action Commitments**

<b>Commitment Number</b>	<b>Commitment Description</b>	<b>Contractor's Committed Completion Date</b>	<b>Inspection Report Section that discusses the issue.</b>
99-CMS-006	ECP training will be mandatory for all BNFL TWRS-P project positions	01/29/99	Section 1.4 of this report
99-CMS-005	Training on the ECP will be conducted for all current BNFL employees	04/02/99	The inspector verified training records to determine the number of employees who had been trained by the April completion date. The inspector found that approximately 300 employees had been trained by that date. This number of employees approximately matched the number of employee employed by the Contractor. The training module to conduct these training sessions was reviewed by the inspector and was found to have been consistent with the program description.
99-CMS-004	ECP information has been added to the Project	01/29/99	Section 1.4 of this report

<sup>3</sup> BNFL Letter 001348, to D. C. Gibbs, RL, "TWRS-P Contract No. DE-AC06-96RL13308-W375 – Response to Employee Concerns Program Inspection Report", dated January 29, 1999.

<sup>4</sup> 99-RU-0167 Letter D. C. Gibbs, RL, to M. J. Bullock, BNFL Inc., "Response To Employee Concerns Program Inspection Report," dated February 17, 1999.

<b>Commitment Number</b>	<b>Commitment Description</b>	<b>Contractor's Committed Completion Date</b>	<b>Inspection Report Section that discusses the issue.</b>
	Orientation package		
99-CMS-007	Qualification standards for the ECP Officer, ECP Coordinator, and staff will be incorporated in BNFL TWRS-P project documents	04/02/99	Section 1.6 of this report
99-CMS-008	Develop procedural guidance for handling employee concerns and incorporate in BNFL TWRS-P implementing project documents	04/02/99	<p>The following elements were evaluated by the inspector:</p> <ul style="list-style-type: none"> <li>• Roles, duties, and responsibilities for ensuring and maintaining independence from the initiating employee line organization (Sections 1.2 and 1.3 of this report)</li> <li>• Guidance for identifying and taking immediate actions for imminent hazards (Section 1.2 of this report)</li> <li>• Guidance for resolving employee concerns in a fair and impartial manner (Sections 1.2 and 1.3 of this report)</li> <li>• Guidance for assuring and maintaining confidentiality (Sections 1.2 and 1.4 of this report)</li> <li>• Guidance for involving people with the appropriate expertise and authority (Section 1.3 of this report)</li> </ul>
99-CMS-009	Develop procedural guidance for ECP administration and incorporate in BNFL TWRS-P project documents	04/02/99	<p>The following elements were evaluated by the inspector</p> <ul style="list-style-type: none"> <li>• Roles, duties, and responsibilities for tracking and trending employee concerns (Section 1.2 of this report)</li> <li>• Guidance for conducting exit debriefing interviews (Section 1.4 of this report)</li> <li>• Guidance for subcontractor ECP oversight (Section 1.2 of this report)</li> <li>• Guidance for protecting</li> </ul>

<b>Commitment Number</b>	<b>Commitment Description</b>	<b>Contractor's Committed Completion Date</b>	<b>Inspection Report Section that discusses the issue.</b>
			employees from reprisal and redressing reprisal should it occur (Sections 1.2 and 1.5 of this report)
99-CMS-010	Senior BNFL project management will encourage and endorse the ECP during ECP training	01/29/99	Sections 1.2, 1.5, and 1.6 of this report

The inspector found that the corrective action commitments made by the Contractor were properly implemented with the exceptions noted as part of Inspection Follow-up Item IR-00-002-01-IFI. Based on the above review, the inspector concluded that the corrective action commitments were adequately implemented; Finding IR-98-001-01-FIN is closed.

## **1.9 ECP Program Assessment Conclusion**

The inspector found that the Contractor had implemented an Employee Concerns Program as required by the Contract. The Contractor dedicated significant amounts of resources to ensure that the program was well advertised and implemented. Senior management support of the ECP was evident. Interviews conducted indicated that the Contractor continued to exhibit an atmosphere of open communication within the project and the employees feel free to express concerns to management without fear of reprisal. The inspector closed inspection Finding IR-98-001-01-FIN. The inspector opened one Inspection Follow-up Item to track five examples of procedure weaknesses.

## **2.0 EXIT MEETING SUMMARY**

The inspector presented the inspection results to members of Contractor management at an exit meeting on February 11, 2000. The Contractor acknowledged the observations and conclusions.

The inspector asked the Contractor whether any materials examined during the inspection should be considered proprietary information. The only proprietary information identified had to do with the independent assessment performed by the Contractor's legal counsel. The inspector returned this material to the Contractor and the information contained in the legal counsel report was not used in this inspection report.

### **3.0 REPORT BACKGROUND INFORMATION**

#### **3.1 Partial List of Persons Contacted**

J. Hawkins, Manager, Human Resources – Project (ECP Officer)  
 K. Lehman, Inspection Coordinator  
 E. Higginbotham, Materials Manager  
 R. Maxwell, QA clerk

#### **3.2 List of Documents Reviewed at the Contractor Facility**

- Tank Waste Remediation System Privatization Project - Employee Concerns Program Description and Instructions, BNFL-5193-ECP-01, Rev. 0, March 18, 1997
- Code of Practice for Employee Concerns Program, K21C001\_0, dated April 1999
- Code of Practice for Investigations and Critiques, K15C010\_0, dated April 1999
- Self-Assessment Employee Concerns Program, SA-W375-00-00016, Rev 0, dated January 27, 2000
- Presentation material for Orientation Training session, entitled "Welcome to the River Protection Project Waste Treatment Plant"
- Code of Practice for Separation from Employment/Assignment, K21C002\_0, dated January 2000
- Training Lesson Plan, Employee Concerns, Course No. EC-0001-01, dated August 1999
- Employee Concerns Call-in Log for BNFL telephone hot-line
- River Protection Project – Waste Treatment Plant Personnel Organization Charts, dated November 30, 1999
- BNFL Memorandum to all RPP-WTP Employees from Mike Lawrence, dated January 28, 2000, CCN# 010784; Subject - RPP - WTP Employee Concerns Program
- Employee Concerns Program Poster
- Employee Concerns Program Brochure
- Employee Training Profiles for the fourteen employees interviewed
- E-mail message from ECP Officer to RPP managers, dated February 01, 2000

- River Protection Project – Waste Treatment Plant Training and Development Plan – Design Confirmation Stage, dated November 2, 1999

### 3.3 List of Inspection Procedures Used

ITP I-108, "Employee Concerns Program Assessment"

### 3.4 List of Items Opened, Closed, and Discussed

#### Opened

IR-00-002-01-IFI      Inspection Follow up Item Finding      ECP procedure weaknesses

#### Closed

IR-98-001-01-FIN      Finding      ECP not implemented

### 3.5 List of Acronyms

BNFL	BNFL Inc.
CFR	Code of Federal Regulations
DOE	U.S. Department of Energy
ECP	Employee Concerns Program
HR	Human Resources
ITP	Inspection Technical Procedure
QA	quality assurance
RL	Richland Operations Office
RU	Regulatory Unit
TWRS-P	Tank Waste Remediation System Privatization